

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 1, 6 through 10, and 15 through 22 are pending, with Claims 1 and 10 being independent. Claims 1, 10, 21, and 22 have been amended.

Claims 1, 6 through 9, and 21 were rejected under 35 U.S.C. § 101 as being non-statutory. All rejections are respectfully traversed. Applicant respectfully submits that Claim 1's "apparatus", with its encoding units and control unit, is a concrete, tangible item, not pure software. Applicant submits that the claims are limited to a practical application in the technological arts; and that the claimed invention is not a natural phenomenon, abstract idea, law of nature, "descriptive material", or "mere manipulation of abstract ideas". MPEP 2106.

Claims 1, 6 through 10, and 15 through 22 yet again were variously rejected under 35 U.S.C. § 103 over US 2001/0048770 A1 (Maeda), US 6,605,768 B2 (Date, et al.), US 6,188,831 B1 (Ichimura), and US 5,091,955 (Iseda, et al.). All rejections are respectfully traversed.

Claims 1 and 10 variously recite, *inter alia*, controlling the first audio encoding unit or step and the second audio encoding unit or step in accordance with setting the encoding to make the partial region the high image quality, such that (1) the audio data is encoded by the first audio encoding unit or step to provide audio encoded data irrespectively of effecting of setting of the encoding and (2) the audio data is encoded by each of the first and second audio encoding units or steps in a time period corresponding to the encoding set by the image encoding setting unit or step so that one of the respective audio encoded data is selected during the time period, with integration of a selected one of the respective encoded audio data as claimed.

However, Applicant respectfully submits that none of Maeda, Date, et al., Ichimura, and Iseda, et al., even in the proposed combinations, discloses or suggests at least the above-discussed claimed features as recited, *inter alia*, in Claims 1 and 10.

The Official Action at page 7 acknowledges that Maeda lacks such features, e.g., the audio encoding units, and therefore relies upon Date, et al., Ichimura and Iseda, et al. Applicant respectfully traverses such reliance.

Applicant respectfully submits that Date, et al. discloses, e.g., that CELP may be applied to the vocal component, while a different compression method such as MIDI is applied to *another* channel, i.e., the other musical-instrument channel, but Date, et al. is completely silent as to the claimed *controlling* of the first and second audio encoding units or steps.

Applicant respectfully submits that Ichimura discloses, e.g., that image data and/or audio data are compressed when the level of importance is low, and for important intervals, those intervals are not compressed or the compression ratio is reduced so high quality is maintained (e.g., col. 18, lines 50-63), but again, Ichimura is silent as to the above-discussed claimed features.

And Applicant submits that Iseda, et al. discloses, e.g., plural entropy coders; however, Applicant respectfully submits that even if the documents could be combined with Maeda as proposed, *arguendo*, the combination would fail to disclose or suggest at least the above-discussed claimed features as recited, *inter alia*, in Claims 1 and 10.

It is further respectfully submitted by Applicant that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims

discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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